

## INTRODUCTION AND USER GUIDE

This introduction provides a thorough explanation of the model code, June 2007 revised edition. It incorporates the prior “user guide” in an expanded, rewritten format. In the 2007 edition, all “commentary” and references have been moved from the modules themselves and into this Introduction and User Guide.

### WHY THIS MODEL CODE IS NEEDED

Small cities and rural counties in Georgia need simplified land use management techniques that minimize administrative requirements. The intent of the Alternatives to Zoning (ALT Z) project is to provide viable alternatives to conventional zoning that can be implemented by smaller local governments with limited technical and administrative capacity.

Rather than proceed directly to writing model code provisions, the ALT Z project scope included an initial study of rural land use problems and issues and prevailing responses to them. A task 1 report (an appendix to the model code) titled *Land Use in Rural Georgia: Problems, Issues, and Prospects* (Jerry Weitz & Associates, Inc. and Community & Environment, Inc. 2001) documented a wide variety of regional and local land use problems and issues in rural Georgia. It confirmed the need to develop and promote new, simpler models of land use management that fit the needs of rural local governments better than conventional zoning. The Task 1 report (see Appendix) helped in many ways to guide the direction and content of the model code.

Some of the cities reviewed and discussed in the Task 1 report are still mostly agricultural with little to no development pressure. Because conventional zoning was not originally designed to address agricultural land uses, some cities may view zoning as an inappropriate tool for solving their land use problems. Conventional zoning could be used to address agricultural land use issues, but the perception of some people in rural Georgia is that conventional zoning may be an inappropriate tool. Conventional zoning may not be the best answer to rural land use problems and issues in small, agriculturally based cities. Something less rigid than conventional zoning is needed for rural counties and small agriculturally based communities.

In rural areas, there will be objections and obstacles to the adoption of local land use regulations. Research in the Task 1 report indicates that Georgia’s rural counties have had an especially difficult time, politically, with attempts to pass countywide zoning regulations. Clearly, less rigid alternatives to conventional zoning are needed before some of the rural counties will try to adopt additional land use regulations.

The Model Land Use Management Code (hereafter, the “model code”) is written with these local governments in mind—small agriculturally based cities that are not experiencing much development but still need some sort of protection from land use problems, and counties that are experiencing growth but cannot muster the support from the citizenry (or the political will on the Board) to adopt conventional zoning. It is highly unlikely that any single land use management system will be applicable to all, or even the vast majority, of local governments in rural Georgia that have not adopted zoning ordinances. However, by basing the model code contents on research of land use problems and issues in rural Georgia (i.e., the Task 1 report), this model code contains several modules that will surely be useful to local governments that want less restrictive land use tools that do not have to be implemented with a zoning map. For instance, a system of building setbacks and buffers between incompatible uses can be adopted independently of zoning districts and a zoning map. Local governments that cannot politically

accept the rigidity and restrictiveness of conventional zoning may more readily adopt such “mapless” or “light” zoning alternatives.

## **WHY AN UPDATE TO THE MODEL CODE WAS PREPARED**

The June 2007 revised edition of the Model Code, Alternatives to Conventional Zoning, represents a commitment by the Georgia Department of Community Affairs to keep the model regulations up to date and to increase its “user-friendliness.” Since phase one of the model code was written in 2001-2002, it has been used by several communities in Georgia. During the last four years, other “modules” have been added to the model code. With the increasing experience in working with the contents of the model code, it was discovered that putting together pieces of the model code in a way that fits individual local needs has not been as easy as was hoped. In particular, some of the problems and issues discovered, and that necessitated a comprehensive revision of the model code, are as follows:

- New models for soil erosion control and floodplain management have been published by state and federal sources since the model code was published.
- Because additional modules have been developed and added to the model code in phases, more coordination, cross-referencing and summarizing was needed.
- Administrative provisions differ somewhat; for instance, some provisions call for a land use officer to administer the code, while others make reference to a city or county engineer. For communities that only have one staff person, those multiple references to different staff members has been problematic.
- The “modularity” of the code was a good idea to begin with, and that approach was designed to avoid extensive duplication of provisions in the model code. The required “mixing and matching” of different modules, however, was found to be a challenge for local governments. The original premise of the model code was that local governments would be able, through commentary, to add different sections and subsections as appropriate to make specialized ordinances “complete.” In practice, this has been more difficult than anticipated. For that reason, we have changed the approach to one that provides more “stand alone” ordinance provisions, where possible. While these changes cannot eliminate altogether the need for combining different modules to meet individual local needs, it should simplify and expedite local use of the model code.
- In order to use the individual modules of the prior model code edition, local governments had to physically delete the commentary and references from the word text files. We have found through experience that local governments get distracted with the commentary and references. It was determined that more of a “finished product,” or one that excludes the commentary, would be more useful to most local governments.
- The model code and commentary (user guide) did not provide sufficient “at a glance” advice and guidance on when to apply certain modules, and under what circumstances the various modules are considered applicable. The prior edition of this model code contained a “user guide” which provided some assistance, but it was determined that additional technical assistance and “how to” guidance was needed to increase optimal use of the model code.

- As modules have been added to the model code, there has been a marked increase in the amount of overlapping provisions. For instance, provisions regarding signs appear in many different parts of the model code. This revised edition of the model code provides an index of major provisions which helps the user locate similar or conflicting provisions on the same subject matter.

## **USER GUIDE**

The User Guide was prepared to assist you or your government in determining which “modules” of the model code might be most appropriate for individual local situations. All users of this model code should review this User Guide and commentary carefully in considering local adoption of any portion of the model code. In addition, an attorney (such as your community's city or county attorney) should carefully review any portion of the model code prior to its adoption by a local government.

The model code was prepared to serve both as a comprehensive code and also as a “menu” of choices and approaches to land use management that provide viable alternatives to conventional zoning. The model code should probably never be presented in its entirety to a citizens advisory group, planning commission, or elected council or commission, because the very size and scope of the document could be intimidating - and perhaps counterproductive. It is very unlikely that a local government will need to consider adopting the entire code. One reason for that is because different sections of the model code address unique geographic areas (e.g., developing and built-up areas, small downtowns, and agricultural/rural areas) that may not be found within a single local jurisdiction. Therefore, although the model code was drafted so that most of the individual modules can and do fit together in a coherent and consistent whole, not every module is likely to be needed in a given jurisdiction. Potential conflicts among the various code sections are inherent any time that alternatives are provided. Users must note that certain modules are intentionally duplicative and therefore would be in conflict with one another if adopted together. The 2006 revised edition of the model code attempts to correct for that duplication and conflict, where possible, but duplication and overlap, given the alternative approaches, cannot be eliminated entirely.

## **GETTING STARTED**

### **Know What is “On the Books” Now**

It is essential to know, before getting started, what types of regulations the local government has already adopted. Obtain a copy of the local government's “code of ordinances” or at least the table of contents of such a code. In rural areas, chances are good that all of the local government ordinances have not been “codified” into a coherent “code.” Why do you need to know what the other adopted ordinances are? Chances are good that few of these will relate at all to the ordinance work you are undertaking. For instance, an ordinance about street peddlers or precious gem dealers probably relates little to land use regulations provided in this Model Code. On the other hand, the code may have already set regulations governing certain uses like home occupations, yard sales, or the maintenance of yards and abating nuisances. It is important to know the subject matters of other adopted ordinances, because some may overlap with what you are proposing, or even conflict with your proposed ordinance(s).

## Decide Which of Two Major Approaches You Will Follow

- Specific problem approach (i.e., a series of stand-alone, single-purpose ordinances).
- Comprehensive (unified) code approach.

Local governments that in the past have been unable for various reasons to adopt land use regulations should take small steps—consider one, or only a few, land use issues and ordinance modules at a time.

How you use the code depends mostly on whether your charge (what you want to regulate) is limited to a single subject matter (e.g., placing standards on manufactured homes), or whether there is a series of regulations to be put in place (multiple subject matters). If only one major subject matter is contemplated, write a stand-alone ordinance using the Standard Template in Part One of this model code. If you are combining more than one set of regulations into one ordinance, you will most likely be following the “comprehensive” approach. You can, of course, prepare different ordinances for different types of land uses. Sometimes, there is some practical or political merit in preparing individual ordinances, and therefore the specific problem approach, repeated over time for several different subject matters, is a viable approach. The disadvantages of multiple, stand-alone ordinances, that result from a specific problem approach, are that (1) it becomes harder and harder to coordinate the provisions of the various stand-alone ordinances; and (2) an unnecessary amount of ordinance bulk (duplicative regulations) results. For that reason, a “comprehensive” approach is generally recommended any time you want to put together an ordinance that has different purposes and subject matters. Of course, the comprehensive approach is more complex and challenging than the specific problem approach and therefore requires more guidance.

## Content Guide

Completing the table below and then referring to it may assist you to more quickly find the sections of the model code that fit your particular needs.

### We Want to Regulate in Order to (check all that apply):

Applicable (check)	Purpose/Content/Subject of Regulation	Parts and Sections of the Model Code Potentially Applicable
	Protect the environment	
	Control land subdivisions and set standards for land developments	
	Ensure compatibility of uses without drawing districts on a map	
	Establish regulations for individual land uses	
	Address problems in particular geographic areas	
	Guide the design and aesthetics of development	
	Consider and apply appropriate growth management techniques	
	Address the need for public facilities when land development occurs (beyond standard	

	requirements)	
	Set up the necessary administration and enforcement persons, bodies and mechanisms	

An additional, more specific content guide, is provided in the following table. This table can be used to identify modules that address a particular subject matter.

<b>USER NEED (SUBJECT AREA): We Need to:</b>	<b>Module Titles That May Apply:</b>	<b>Code Reference:</b>
Regulate hog farms or other animal feeding operations	Animal feeding operations	
Provide standards for mobile parks and campgrounds	Manufactured home parks	
Address various individual uses without zoning	Regulations for specific uses	
Limit the most abusive or obnoxious land use impacts	Nuisance controls	
Regulate development only at highway interchanges	Interchange area development	
Regulate development within corridors		
	Corridor map	
Upgrade the visual features of manufactured homes	Manufactured homes compatibility	
Protect agriculture and resource lands	Agricultural lands	
	Agricultural use notice and waiver	
	Agricultural buffers	
	Rural clustering	
	Intensity districts and map	
	Major permit requirement	
	Environmental impact statement	
	Land use guidance (point) system	
Provide for a basic zoning or land use scheme	Intensity districts and map	
Safeguard against demolition of historic structures	Historic preservation	
Preserve rural character	Rural clustering	
	Design guidelines	
	Manufactured homes compatibility	
	Historic preservation	
Protect neighborhoods without a zoning map	Off-site performance standards	
	Development performance standards	
	Home business uses	
Manage the location of development	Intensity districts and map	
	Land use guidance (point) system	
Provide design guidance and improve aesthetics	Tree protection	
	Signs	
	Manufactured homes compatibility	
	Downtown specific plans	
	Design review	
	Design guidelines	
	Interchange area development	
Establish a review body to look at land use projects	Board of Appeals and variances	
	Planning Commission	
	Hearing Examiner	
Control the off-site impacts of development	Off-site performance standards	
	Nuisance controls	
	Major permit requirement	
	Environmental impact statement	

Establish a city-county administrative arrangement	Intergovernmental agreement for services	
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## Module Compatibility

Many modules are mutually compatible and will work well in combination, while others may not.

## Choose Your Type of Local Government

- Rural county
- Small city in rural area
- Suburbanizing (i.e. faster growth) city or county
- Urban city or county amenable to regulating design/aesthetics

There is a geographical distinction between parts three, four, and five of the model code. Part three of the model code is targeted at areas with developed residential areas that need protection; it includes regulations for protecting neighborhoods, preserving trees, and regulating home businesses and nonresidential land uses, among others. The regulations in part three are most likely to apply to municipalities, although counties certainly may also find them valuable.

As would be expected, the conditions in a small town can differ remarkably from the conditions found in an unincorporated area some ten miles out of town. Indeed, cities and counties may have remarkably different needs with regard to land use regulations. The original intent of the model code was to provide alternatives for rural counties and small cities that have little professional capacity to administer and enforce land use ordinances and that are witnessing a slow pace of development (or even no growth). With the modules that have been added since its inception, however, the model code has become increasingly useful in faster-pace development environments. Therefore, all of the model code is potentially applicable in any jurisdiction, with only a few exceptions – some provisions such as design review may only be politically acceptable in more urban areas, while provisions regarding rural clustering or agricultural uses will usually only be applied in rural counties.

Part four is designed primarily to address agricultural and rural issues such as agricultural buffers and manufactured home park regulation. While the modules in part four are expected to be more popular with rural counties than cities, there are a number of cities in Georgia that still have much farmland inside the city limits and that have a substantial number of manufactured homes. Therefore, while designed for rural counties, modules in part four are clearly applicable to some of the cities in Georgia.

Part five of the model code provides the “aesthetic” tools that some small cities may need to protect their overall appearance and/or their historic qualities. In some instances, the provisions of this part might be considered applicable to parts of rural counties.

Part six provides alternative approaches. With the exception of Section 6.1, which is similar to conventional zoning, part six contains regulations that are no longer really “innovative” with regard to the United States, but which are almost entirely absent from use in Georgia. The modules in part six of the model code were derived from land use programs in other states and localities outside Georgia, as described in the Task 2 report for ALT Z, titled, *Alternative Land Use Management Techniques with Potential Application In Rural Georgia* (Jerry Weitz & Associates, Inc. 2001). (see Appendix).

Local governments that need guidance in establishing procedures, boards, and commissions should refer to part seven for assistance. Part seven provides modules on procedures (including amendments to the model code and applications for development approvals) and establishing a Board of Appeals, Planning Commission, and Hearing Examiner.

### **Consult the Comprehensive Plan for Guidance**

Virtually every local government in Georgia has a comprehensive plan that is intended to provide local policy direction with regard to land use. Your local government's comprehensive plan should provide guidance as to which types of land use problems have been identified in your city or county and therefore, which types of regulations are needed. In some instances, the types of local regulations that are needed to implement the comprehensive plan will be identified in the Short-Term Work Program (STWP) portion of the comprehensive plan. It is also fruitful to consult the Land Use Element of the comprehensive plan and the Natural and Historic Resources Element(s), because they are likely to provide descriptions of land use problems and environmental issues and the rationales for adopting various land use and environmental regulations. In some cases, local comprehensive plans may not have sufficient data and policy statements strong enough to support the regulations contained in this model code. Comprehensive planning is an essential prerequisite to the implementation of most parts of this model code.

The model code assumes the city or county interested in regulating land use has a comprehensive plan and that it supports efforts to regulate land uses. Frequent references to the comprehensive plan are provided in the model code, and adoption of some of the modules should be preceded by amendments to the comprehensive plan.

### **Quality Communities Objectives**

The Georgia Department of Community Affairs has adopted a vision statement and quality communities objectives. In summary, the Department's vision is (among other principles) to structure its programs to: preserve quality of life, revitalize downtowns, reverse the decline of older neighborhoods, conserve natural and historic resources, facilitate sustainable strategies for growth and development, manage river and transportation corridors, promote more traditional and less auto-dependent (i.e., traditional neighborhood) development patterns, mitigate the negative impacts of development, introduce new smart growth concepts, regulate but do not hinder economic development in rural communities, reduce sprawl by minimizing the conversion of undeveloped land at the urban periphery, and achieve local participation in regional initiatives to protect shared natural resources.

One single project, such as this model code, cannot realistically be expected to promote and implement all objectives. However, the Department's vision statement and quality communities objectives suggest, implicitly if not explicitly, much of this project's content. The model code provides "modules" that, if adopted by local governments, will bring them closer to attaining several of the quality communities objectives. However, land use regulation is but one spoke in the wheel of local programs—including financial abilities and leadership qualities—that are needed to attain many of the department's objectives.

### **Gauge Current Administrative Capacity**

Consider which of the following possible alternatives fit the local context. Doing so will help consider whether the designated staff person has the capacity to administer and enforce the provisions proposed.

- We have no current administrative or enforcement staff
- We have staff available but they are not professionals in this field(s)
- We have one or more development processes that are enforced (e.g., soil erosion)
- We have a building inspection department and enforce building codes
- We have a city/county planner

This model land use management code takes into account that many cities and counties still do not administer construction codes and thus probably do not require building permits. This model code, if adopted, does not require the local government to adopt minimum building and other construction codes or administer state minimum codes.